

## Gebhardt, Sharron

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**From:** Gibbs Tschudy, Deborah  
**Sent:** Thursday, September 04, 2003 10:52 AM  
**To:** Gebhardt, Sharron  
**Subject:** FW: 68 Fed. Reg. 50087



debbie.wpd (7 KB)

-----Original Message-----

**From:** Lee E. Helfrich [mailto:[helfrich@lnllaw.com](mailto:helfrich@lnllaw.com)]  
**Sent:** Saturday, August 23, 2003 9:17 AM  
**To:** Gibbs Tschudy, Deborah  
**Cc:** Querques Denett, Lucy; Vogel, Kenneth; Gebhardt, Sharron  
**Subject:** 68 Fed. Reg. 50087

Please see the attached request for data.

Re: Proposed Rule, 68 Fed. Reg. 50087

Dear Debbie:

I am writing to request access to information referenced in MMS's proposed rule to amend the federal oil valuation regulations. I am directing this request to you because, as you know, the principal author – Dave Hubbard – recently retired. In our recent dealings with MMS on another matter, I understand that it has been difficult to find documentation related to Mr. Hubbard's work on valuation matters, particularly studies relating to California. Fortunately, our office was able to provide MMS with copies. I assume that any difficulty associated with Mr. Hubbard's retirement does not extend to data that might support MMS's proposed changes to the oil rules. Thus, because MMS has set a short 30 day comment period for comments, I trust that MMS will be able to forward this material to us within a week.

By way of background, I note that I made a similar request for access to information during the workshop in DC last March. No data was ever received.

As I said during that workshop, it was impossible to provide comment on the specific items listed in the agenda because the agenda was not provided until the day of the workshop. The federal register notice listed only broad topics. It was also very clear that industry commenters were much more familiar with the agenda items – and, indeed, some of those items (such as the rate of return) were, as stated by Mr. Deal of the API, simply the product of an industry request that they be “run up the flagpole” again – not because of any experience under the 2000 oil rule. Both Mr. Deal and the IPAA representative conceded that there had been no industry changes since the effective date of the 2000 rule (or the 1988 rules) underlying that particular proposed change.

My firm, of course, represents the California State Controller's Office on issues of federal royalty valuation. Thus, we are most interested in obtaining the documentation evaluated or reviewed by MMS (whether generated by industry or the federal government) relating to the proposed changes for valuation of crude oil on- and off-shore California. Although there is, of course, some overlap, I have tried to narrow this request to information relevant to MMS's proposed rules as they may relate to California. Thus, this request includes:

1. All documents relating to MMS's proposal to replace ANS value with NYMEX value, including but not limited to, contracts for crude oil on- and offshore California, which reference NYMEX.
2. All documents and data reflecting MMS's “experience” (p. 50088) under the 2000 oil rules, including but not limited to, its “experience” with determining actual costs of transportation.
3. All documents and information not already contained in the administrative record of the litigation challenging the 2000 oil rules, which indicates “a potential for improving those rules in some respect” (p. 50088), including but not limited to, documents that would detail

what in the “judicial challenge to the 2000 rule led MMS to reconsider whether BBB is a sufficient rate of return” (p. 50093).

4. All documents relied upon by MMS in support of its statement (p. 50085) that there is “an issue” arising from “recent publicity and questions about information provided to spot price reporting services and the effect such potentially inaccurate information has on spot prices in general.” Please also provide any data relied upon by MMS that would support its implicit position that data from these reporting services is more accurate for calculating differentials.

5. Documentation relating to the “correlation” between arm’s length transactions and “public indicia of crude oil prices” referenced on p. 50089, including information on how MMS identified arm’s length transactions for purposes of making the correlation.

6. All documentation examined by MMS (p. 50094) relating to the proposal for increasing the rate of return, including the API study.

7. All documentation related to the “review” of transportation allowances referenced on p. 50099.

8. All documentation related to MMS’s calculation of revenue impact for California, including the underlying data used by MMS in making that calculation.

9. All documentation relating to the process for internal review of the proposed rule (e.g. surnaming).

10. All Interior records reflecting industry and/or congressional contacts regarding changes to the 2000 oil rules dated prior to February 2003.

Thanks for your cooperation.

Sincerely,

Lec Ellen Helfrich